

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
DANVILLE DIVISION

JUL 06 2017
JULIA C. DUDLEY, CLERK
BY: s/ H. MCDONALD
DEPUTY CLERK

CEDRIC EURON DRAPER,)	
)	
Plaintiff,)	Case No. 4:17-cv-00042
)	
v.)	<u>ORDER</u>
)	
MUY PIZZA HUT SOUTHEAST LLC)	By: Hon. Jackson L. Kiser
and PIZZA HUT,)	Senior United States District Judge
)	
Defendants.)	

Plaintiff Cedric Euron Draper has filed a Motion for Reconsideration [ECF No. 7] of his Motion for Leave to Proceed *in forma pauperis* (“IFP”) [ECF No. 1] which was denied on June 29, 2017. [ECF No. 4.] Plaintiff has also filed a “Motion Requesting Another Judge Oversee the Case.” [ECF No. 9.] Plaintiff argues that a new judge is necessary because his previous motions to proceed IFP were denied even though his income is below the necessary threshold.

Contrary to Plaintiff’s beliefs, his IFP motion was *not* denied because of his income; it was denied *because his claims are frivolous*. See 28 U.S.C. § 1915(e)(2)(B)(i) (allowing courts to deny IFP motions if the underlying claims are “frivolous or malicious”). Plaintiff simply refiled a complaint that I had previously dismissed for failure to state a claim and failure to pay the filing fee. Accordingly, both Motions are **DENIED**.

If Plaintiff still wishes to proceed with this action, he must pay the filing fee as instructed in the June 29 Order. Plaintiff should also note that repeated, frivolous filings may result in sanctions pursuant to Fed. R. Civ. P. 11(b)–(c).

The clerk is directed to forward this Order to Plaintiff and all counsel of record.

Entered this 6th day of July, 2017.

s/Jackson L. Kiser

SENIOR UNITED STATES DISTRICT JUDGE